



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER OF
PATENTS AND TRADEMARKS
Washington, D.C. 20231

Daniel P. Morris
IBM Corporation
Intellectual Property Law
P.O. Box 218
Yorktown Heights, NY 10598

MAILED

FEB 20 1996

PETITIONS OFFICE

In re Application of	:	
Johannes G. Bednorz et al.	:	LETTER REGARDING
Application No. 08/479,810	:	IMPROPER FILING
Deposited: June 7, 1995	:	
Attorney Docket No. Y0987-074BY	:	

The above-identified application has been referred to this office for review of the filing date accorded the application.

The application was deposited on June 7, 1995. The application papers included a transmittal letter requesting a continuation-in-part (CIP) application under 37 CFR 1.60 based on prior application No. 08/303,561. The true copy of the prior application required by 37 CFR 1.60 was omitted on June 7, 1995. In error, the application was processed by Application Processing Division with a filing date of June 7, 1995, as a CIP application under 37 CFR 1.62. However, the preliminary amendment adding the new matter required by 37 CFR 1.62 was omitted on June 7, 1995.

This is **not** a proper filing under 37 CFR 1.60. The procedure set forth in 37 CFR 1.60 is available for filing either a continuation or a divisional application of a prior pending, complete application. The procedure set forth in 37 CFR 1.60 is not available for filing a CIP application. See 37 CFR 1.60(b) and MPEP 201.06(a) and 201.08. Since the application is improper, it is not entitled to a filing date under 37 CFR 1.60.

Applicants are given TWO MONTHS from the date of this letter to file a petition under 37 CFR 1.182 requesting that the request for a CIP application under 37 CFR 1.60 be disregarded and that the application be considered as either a continuation or a divisional application under 37 CFR 1.60. See 37 CFR 1.181(f). The petition must be accompanied by a true copy of the specification and drawings as originally filed in the prior application and by a statement verifying the copy as a true copy as required by 37 CFR 1.60(b).

It is noted that a copy of the signed declaration originally filed in the prior application and the \$130.00 surcharge were filed in the present application on November 30, 1995.

Further correspondence with respect to this matter should be addressed as follows:

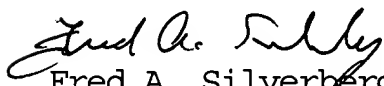
By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: One Crystal Park, Suite 520
2011 Crystal Drive
Arlington, VA

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 305-9282.

Failure to file a timely petition as outlined above will result in the return of the application to Application Processing Division for processing as an improper application under 37 CFR 1.60 (no filing date granted).



Fred A. Silverberg
Senior Legal Advisor
Special Program Law Office
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects